

AGENDA ITEM

JULY 145

Legal Services Trust Fund
Program: Addition of Threshold
Requiring Submission of Audited
Financial Statement to Schedule
of Charges and Deadlines

DATE: June 25, 2009

TO: Members of the Board Committee on Planning, Program Development and Budget;
Members of the Board of Governors

FROM: Stephanie Choy, Managing Director
Legal Services Trust Fund Program

SUBJECT: Legal Services Trust Fund Program: Addition of Threshold Requiring Submission
of Audited Financial Statement to Schedule of Charges and Deadlines

EXECUTIVE SUMMARY

As a part of the State Bar's continuing rules revision project, Title 3, Rules 3.660 – 3.692 of the Rules of the State Bar governing the Legal Services Trust Fund Program (LSTFP) were adopted by the Board of Governors at the March, 2009 meeting. In order to conform to the protocols established by the State Bar rules revision project, drafters removed reference to the threshold amount that requires successful applicants (qualified legal services projects and qualified support center) for funding to submit an audited financial statement with the intent that it be included in the Schedule of Charges and Deadlines rather than in the body of the rule. The Commission requests that this demarcation amount of \$500,000 be included in the Schedule of Charges and Deadlines (Appendix A).

Board members with questions about the proposal may contact Stephanie Choy at (415) 538-2249 or stephanie.choy@calbar.ca.gov, or contact Mary Yen at (415) 538-2369 or mary.yen@calbar.ca.gov.

Background

At its March 2009 meeting, the Board of Governors adopted new rules 3.660-3.692 for the Legal Services Trust Fund Program (LSTFP) in Title 3 of the Rules of the State Bar. These new rules replace the Rules Regulating Interest Bearing Trust Accounts for the Provision of Legal Services to Indigent Persons, which were repealed at the same meeting. The new rules govern the process by which qualified legal services programs and qualified support centers apply for grants funded by Interest on Lawyers Trust Accounts, including minimum documentation necessary to complete the application process. One of those requirements is submission of an audited financial statement for the previous year, except for applicants whose gross corporate

expenditures were less than \$500,000, in which case a financial review in lieu of an audited financial statement is acceptable. In order to conform to the structure outlined by the State Bar rules revision process, drafters of new Rule 3.680(E)(1) removed the threshold dollar amount from the LSTFP rules, with the intent to place that amount in the Schedule of Charges and Deadlines. As approved, that rule now states,

An application must include

- (1) an audited financial statement by an independent certified public accountant for the latest completed fiscal year. . . . A financial review in lieu of an audited financial statement may be submitted by an applicant whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines. . . .

The Board now is requested to approve inclusion in the Schedule of Charges and Deadlines the demarcation amount of \$500,000 requiring submission of an audited financial statement.

RECOMMENDATION

The Legal Services Trust Fund Program proposes that the threshold amount of \$500,000 requiring submission of an audited financial statement be approved by the Board for addition to the Schedule of Charges and Deadlines. Rule 3.680(E)(1) permits submission of a reviewed financial statement when an applicant's gross corporate expenditures are less than the \$500,000 threshold amount.

BOARD BOOK/ADMINISTRATIVE MANUAL

This item has no impact on the Board Book/Administrative Manual.

FISCAL AND PERSONNEL IMPACT

No fiscal or personnel impact is anticipated.

RULE AMENDMENTS IMPACT

None known.

RESOLUTIONS

If the Board Committee on Planning, Program Development and Budget concurs with staff's recommendation, the following resolution is suggested:

RESOLVED that the Board Committee on Planning, Program Development and Budget hereby recommends that the Board of Governors require that the threshold amount required by State Bar Rule 3.680(E)(1) for submission of a financial audit by successful applicants for Legal Services Trust Fund Program funding be \$500,000 and this amount be added to the Schedule of Charges and Deadlines, effective July 17, 2009.

Should the Board of Governors concur with the recommendation of the Board Committee on Planning, Program Development and Budget, it would be appropriate to adopt the following resolution:

RESOLVED that upon recommendation of the Board Committee on Planning, Program Development and Budget, the Board of Governors hereby requires that the threshold amount required by State Bar Rule 3.680(E)(1) for submission of a financial audit by successful applicants for Legal Services Trust Fund Program funding be \$500,000 and this amount be added to the Schedule of Charges and Deadlines, effective July 17, 2009.

ATTACHMENT:

Attachment 1: Appendix A: Schedule of Charges and Deadlines **for 2010**